



Federal Communications Commission  
Washington, D.C. 20554

OCT 19 1998

Docket 96-198

OCT 21 1998

The Honorable Dianne Feinstein  
United States Senate  
331 Hart Senate Office Building  
Washington, D.C. 20510-4904

EX-100 OR LATE FILED

Dear Senator Feinstein:

This is in response to your letter on behalf of your constituents regarding the Commission's implementation of Section 255 of the Communications Act (Section 255), added by the Telecommunications Act of 1996. Section 255 requires that telecommunications equipment manufacturers and service providers must ensure that their equipment and services are accessible to persons with disabilities, to the extent that it is readily achievable to do so. In adopting Section 255, Congress gave the Commission two specific responsibilities, to exercise exclusive jurisdiction with respect to any complaint filed under Section 255, and to coordinate with the Architectural and Transportation Barriers Compliance Board (Access Board) in developing guidelines for the accessibility of telecommunications equipment and customer premises equipment.

The Commission adopted a Notice of Inquiry in September 1996, initiating WT Docket 96-198 and seeking public comment on a range of general issues central to the Commission's implementation of Section 255. The Commission also adopted a Notice of Proposed Rule Making (NPRM) in April 1998, which sought public comment on a proposed framework for that implementation. The NPRM examined the Commission's legal authority to establish rules implementing Section 255, including the relationship between the Commission's authority under Section 255 and the guidelines established by the Access Board in February 1998. The NPRM further solicited comment on the interpretation of specific statutory terms that are used in Section 255, including certain aspects of the term "readily achievable," and the scope of the term "telecommunications services." In addition, the NPRM sought comment on proposals to implement and enforce the requirement that telecommunications equipment and services be made accessible to the extent readily achievable. The centerpiece of these proposals was a "fast-track" process designed to resolve many accessibility problems informally, providing consumers with quick solutions.

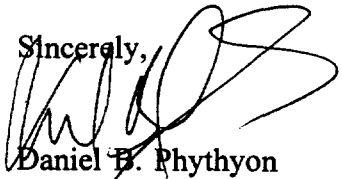
It is important to note that the Commission has not issued a final decision regarding any of the proposals suggested in the NPRM. The record in this proceeding closed on August 14, 1998, and the Commission staff is currently reviewing public comments. Since the passage of Section 255, the Commission has worked closely with the Access Board and with various commenters to design an implementation framework that best reflects the intent of Congress in adopting Section 255. The Commission has received numerous comments expressing the same views as those expressed by your constituents. These comments are included in the record of WT Docket 96-198, and will be carefully considered

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before final action is taken on this critically important matter. I appreciate all input as a way of establishing as thorough and representative a record as possible on which to base final rules implementing Section 255.

Sincerely,



Daniel B. Rhythyon

Chief, Wireless Telecommunications Bureau

DIANNE FEINSTEIN  
CALIFORNIA

COMMITTEE ON FOREIGN RELATIONS  
COMMITTEE ON THE JUDICIARY  
COMMITTEE ON RULES AND ADMINISTRATION

# United States Senate

WASHINGTON, DC 20510-0504

August 10, 1998

*cc  
cc-  
#6384*

Lauren J. Belzin  
Acting Director, Office of Legislative Affairs  
Federal Communications Commission  
Room 808  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Ms. Belzin:

**INQUIRY FROM:** Bern Klein (Reference #: mmp-64581)  
Immediate Past President  
SHHH, North Bay Chapter

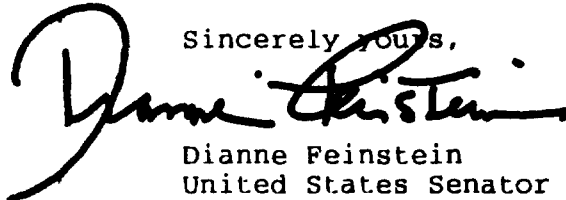
**RE:** NPRM

I am forwarding the attached constituent inquiry for your review and consideration. I believe that my constituent would benefit from your response to the specific issues raised in the enclosed letter.

I would appreciate it if you would return your response, in duplicate, to my Washington, DC office as quickly as possible so that I can share the information with my constituent.

With warmest personal regards.

Sincerely yours,



Dianne Feinstein  
United States Senator

DF:mmp

1476733

## **SHHH - NORTH BAY CHAPTER**

**SELF HELP FOR HARD OF HEARING PEOPLE, INC.**

**3200 MACLEOD STREET, NAPA CA 94558  
707/226-9832**

June 28, 1998

The Honorable Dianne Feinstein  
331 Hart Senate Office  
Washington, DC 20510

Dear Senator Feinstein,

Our chapter Board of Directors, on behalf of our 52 member chapter, has instructed me to write you regarding FCC's Notice of Proposed Rulemaking (NPRM) relative to access provisions of the Telecommunications Act of 1996.

It is not clear whether FCC intends to adopt the Access Board guidelines as published last February. Also, there seems to be a question whether FCC should apply the guidelines to service providers as well as manufacturers. Such foot dragging is a keen disappointment to us. Our experience is that even those normal hearing persons who actually make their living by directly providing services/products to the hard of hearing often don't fully understand the difficulties we encounter. As you can imagine it is even harder to persuade the providers of services/products to include FULL HEARING ACCESS when their goal is to serve only the general population. FCC should make it clear to both providers and manufacturers that full access for ALL Americans is to be achieved.

Our Board is concerned about FCC's introduction of the concept of "cost recovery" as a substitute for the "readily achievable" standard. The "readily achievable" standard has worked reasonable well in all elements of the business and industrial community. Why should the telecommunications industry be shielded from its responsibility? FCC shouldn't be permitted to water down the "readily achievable" standard.

Our Board understands NPRM includes a provision wherein FCC could block the court action by a complainant if it opposed the issue. While the Board appreciates FCC's desire to streamline the governmental process it strongly opposes any infringement of a citizen's right to resolve injustices through court action.

Our Board believes that "Enhanced Services" should be included in coverage under Section 255. Automated voice response systems can be a monumental challenge to the hard of hearing, especially to those who must use a TTY. An overwhelming amount of telecommunications is now automated. Hard of hearing persons need adjustments to such systems so they too can participate. An enormous amount of accomodation has been made for those whose physical impairment is visible. Equal accomodation should be made for those whose impairment is invisible, such as the hard of hearing.

We request that you bring the above comments to the attention of William E Kennard, Chairman of the FCC. The Board recognizes that FCC staff has done a great amount of good work in this area. However there are significant deficiencies that must be addressed so as to be fair to all elements of the handicapped community.

On behalf of the Board and our chapter I am,

Yours very truly,

A handwritten signature in cursive script that reads "Bern Klein".

Bern Klein, Immediate Past President

RECEIVED

AUG 18 1998

INTERDEPARTMENT TRANSFER SLIP

FC

Date: 8/27/98

To: Federal Communications Commission  
1919 M Street, NW.  
Washington, D.C. 20554

*CAB  
Lupinski  
Talk Oct 96*

*6992*

REMARKS:

The attached inquiry from Senator Feinstein on behalf of Mr. Isadore Cohen is being transferred for your necessary action. The writer has been informed of the transfer.

FROM: Charles Mullen, OPI, Social Security Administration  
ADDRESS: 4-C-5 Annex Phone: 410-965-2736  
6401 Security Blvd. Balto., MD 21235 (mc)

COPY



SOCIAL SECURITY

TEH2A

August 27, 1998

The Honorable Dianne Feinstein  
United States Senate  
Washington, D.C. 20510

Dear Senator Feinstein:

This is in response to your inquiry on behalf of  
Mr. Isadore Cohen.

The Federal Communications Commission has jurisdiction over  
the matter you wrote about. Therefore, we are referring  
your inquiry to that Agency at 1919 M Street, NW.,  
Washington, D.C. 20554, for consideration.

Sincerely,

Charles H. Mullen  
Associate Commissioner  
Office of Public Inquiries

DIANNE FEINSTEIN  
CALIFORNIA

COMMITTEE ON FOREIGN RELATIONS  
COMMITTEE ON THE JUDICIARY  
COMMITTEE ON RULES AND ADMINISTRATION

**United States Senate**  
WASHINGTON, DC 20510-0504

July 30, 1998

Washington Headquarters  
Social Security Administration  
500 E Street SW  
Suite 800  
Washington, D.C., 20254

Dear Friend:

INQUIRY FROM: Isadore Cohen (Reference #: mmp-64278)

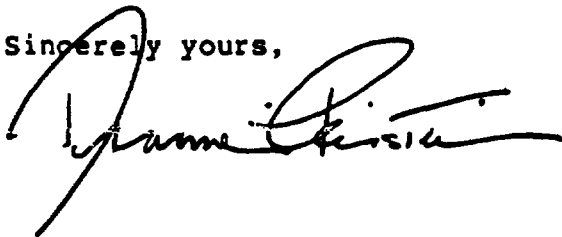
RE: Social Security

I am forwarding the attached constituent inquiry for your review and consideration. I believe that my constituent would benefit from your response to the specific issues raised in the enclosed letter.

I would appreciate it if you would return your response, in duplicate, to my Washington, DC office as quickly as possible so that I can share the information with my constituent.

With warmest personal regards.

Sincerely yours,



1476742

Honorable Diane Feinstein  
United States Senate  
Washington, DC 20510

July 7, 1998

Dear Senator Feinstein,

My name is Isadore Cohen. I am 82 and hearing impaired. I am also a constituent. The Federal Communications Commission has served Notice of Proposed Rule Making (NPRM) on the access provisions of the Telecommunications Act of 1996. Congress gave responsibilities to the Access Board to develop guidelines, but gave enforcement powers to the FCC. The FCC has outlined its positions on some of the issues and I am responding.

Many features, if adopted, would result in a negative impact on access for people with disabilities. I am seriously concerned that the FCC plans are inconsistent with Congressional intent to make telecommunications equipment and services accessible to people with disabilities, as called for in Section 255 of the Telecommunications Act of 1996.

Issue 1. In the Access Board guidelines of Feb '98, Congress gave Access Board authority to develop guidelines and indicated that the FCC guidelines be consistent with these. The FCC has shown an uncertainty in this matter. For example, The FCC is undecided as to whether the guidelines should be applied to Service Providers as well as manufacturers. Of course they should. Our hearing is fundamentally concerned with both entities.

Issue 2. When Congress wrote the Telecommunications Act, it adopted the term "readily achievable" from the ADA, to describe a company's obligation to make products accessible. The FCC has deviated radically from the readily achievable standard that has been used in disability law by introducing the concept of "cost recovery." The FCC states that it is appropriate for a manufacturer to consider whether or not it will recover the costs of increased accessibility in its assessment of readily achievable standards.

Please note that introducing the cost recovery concept here would undermine the concept of accessibility in our society. It is because market forces do not work that we have laws, such as the ADA, requiring accessibility. Manufacturers already have protection from excessive cost impacts under the ready achievable standard. Allowing a company to determine if an accessibility feature will pay for itself is a major deviation from the way we have addressed accessibility in the past. For example, a few years ago, prior to cellular phones, it was mandated that all phones have telecoils--a most necessary item to enable hard of hearing (HoH) to use phones. Now, since it wasn't specifically indicated, most cellular analog phones do not come with telecoils.

Issue 3. This issue considers complaints. FCC suggests a 5 day quickie approach as a first step, and if not resolved, and if FCC thinks it warrants a formal legal procedure, it would invoke said procedure. All well and good, but I don't think FCC should decide who may file and who may not. I do support FCC in not requiring filing fees for complaints. Essentially, I believe it's unfair to deny an individual his day in court because FCC decides to prevent such action.

Issue 4. This last item has hardly the magnitude of importance of the previous issues, nevertheless, it must be stated. Most phones and assistive listening devices (with the exception of those specifically designed) do not come with an Access Port. This Access Port is simply a jack to accommodate a plug-in cable enabling it to be connected to other assistive devices. This is similar to building a vehicle expressly to haul a trailer, and not equipping it with a trailer hitch.

I thank you for the time spent in reading my letter, and I appreciate any consideration you see fit to award it.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Iz Cohen'.

Iz Cohen

DIANNE FEINSTEIN  
CALIFORNIA

COMMITTEE ON FOREIGN RELATIONS  
COMMITTEE ON THE JUDICIARY  
COMMITTEE ON RULES AND ADMINISTRATION

United States Senate  
WASHINGTON, DC 20510-0504

WTB  
handicap

7/3/0

September 4, 1998

Mr. Dan Phythyon  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

SEP 22 12 30 PM '98

Dear Mr. Phythyon:

INQUIRY FROM: Hanna Cassel (Reference #: mmp-64750)

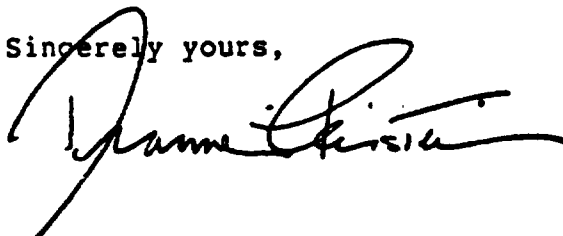
RE: FCC proposal

I am forwarding the attached constituent inquiry for your review and consideration. I believe that my constituent would benefit from your response to the specific issues raised in the enclosed letter.

I would appreciate it if you would return your response, in duplicate, to my Washington, DC office as quickly as possible so that I can share the information with my constituent.

With warmest personal regards.

Sincerely yours,



HANNA CASSEL  
1753 1/2 PINE ST.  
NAPA, CALIFORNIA 94559

The Honorable

7/7/98

Washington, D.C.

1484335

Dear Senator Feinstein,

Having suffered for many years from impaired hearing I am concerned about all matters related to cuts or changes in Rulemaking affecting disabilities.

The new FCC proposal is inconsistent with the Congressional intent to make Telecommunications Services accessible to people with disabilities.

If the proposed rule is allowed to stand, it would present a serious setback in past progress. It is the FCC/NPRM proposed Rulemaking which needs to be resolved in favor of all handicapped persons.

Please contact William E. Kennard, chairman of the FCC, pointing out the needs and concerns regarding this matter, asking for his favorable support.

Thanking you in advance, I remain

cc/ Senator Boxer  
Representative Briggs

Sincerely yours,

Hanna Cassel

DIANNE FEINSTEIN  
CALIFORNIA

United States Senate  
WASHINGTON, DC 20510-0504

COMMITTEE ON FOREIGN RELATIONS  
COMMITTEE ON THE JUDICIARY  
COMMITTEE ON RULES AND ADMINISTRATION

WJB  
handwritten initials

7309

September 4, 1998

Ms. Lou Sizemore  
Congressional Liason Specialist  
Federal Communications Commission  
1919 M St N.W.  
Washington, D.C., 20554

Dear Ms. Sizemore:

INQUIRY FROM: John B. Klein (Reference #: mmp-64749)

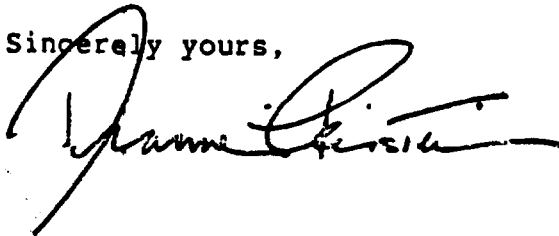
RE: NPRM

I am forwarding the attached constituent inquiry for your review and consideration. I believe that my constituent would benefit from your response to the specific issues raised in the enclosed letter.

I would appreciate it if you would return your response, in duplicate, to my Washington, DC office as quickly as possible so that I can share the information with my constituent.

With warmest personal regards.

Sincerely yours,



SEP 22 12 30 PM '98

1484334

**JOHN B. (BERN) KLEIN**  
3200 MACLEOD STREET  
NAPA, CA 94558 - 3135  
707/226-9832

July 7, 1998

The Honorable Dianne Feinstein  
331 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Feinstein,

This is in regard to FCC's Notice of Proposed Rulemaking (NPRM) relative to access provisions of the Telecommunications Act of 1996. I am concerned that such NPRM may not be consistent with congressional intent to make telecommunications equipment and services accessible to people with disabilities as called for in Section 255 of the Act.

Service providers as well as manufacturers must be subject to such regulation. Occasionally I must use the telephone make adjustments to my investment portfolio. If I could not use the telephone then I would be placed at an economic disadvantage because the adjustments are time-sensitive. Adjustments through the mail would be too late. Likewise, anyone in the work force (I'm retired) must be able to communicate quickly and effectively if he is to stay competitive with his co-workers or other businesses.

The notion of "cost recovery" is not in keeping with what millions of Americans do every day to accomodate the disabled - I suspect the telecommunications industry is lobbying pretty intensively here. We have taxed ourselves to install or retro-fit wheelchair ramps and accessible toilets in public buildings, often at great expense. The bite is even sharper to small business who spend a relatively greater share of their income to make such accomodations. Every day we walk from the parking lot past vacant spaces marked and set aside for the physically handicapped because someone just might need to use the space. We don't complain. So why should the telecommunications industry be shielded from its responsibility? FCC staff is trying to do a reasonable job under a lot of pressure, but they shouldn't be permitted to water down the "readily achievable" standard which has worked so well in the past. The telecommunications industry is far from a sick industry. Their stock is among those that are greatly over-priced. Their markets are expanding at breath taking speed. In my opinion they can stop their whining and get on with providing accessible facilities and services for all Americans.

It is my understanding that NPRM includes a provision wherein FCC could block court action by a complainant if it opposed the issue. Again FCC staff could be in a difficult position, responding congressional cries to streamline the governmental process. However I strongly oppose any infringement upon my right to resolve injustices through court action.

I request that you bring the above comments to the attention of William Kennard, Chairman of the FCC. It is difficult for staff to develop rules that will please everyone. However, there are significant deficiencies in NPRM that should be addressed so as to be fair to all elements of the handicapped community.

Yours very truly,

*Ben Klein*